

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 27, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, May 27, 2008.

Mayor Warmington opened the meeting with a prayer from Pastor Lowell Anderson from the Central Assembly of God after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Chris Carter, Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Steve Wisneski, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker

2008-45 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the May 12th Commission Worksession, and the May 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. 2008-2009 Michigan Municipal League Membership Dues. CITY CLERK

SUMMARY OF REQUEST: Approval to pay the 2008-2009 MML dues in the amount of \$9,855.

FINANCIAL IMPACT:

MML Dues	\$8,078
Environmental Assessment	\$ 969
Legal Defense Fund	<u>\$ 808</u>
Total	\$9,855

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. Fireworks Display Permit for Muskegon Country Club, 2801 Lakeshore.
CITY CLERK

SUMMARY OF REQUEST: Melrose Pyrotechnics, Inc. is requesting approval of a fireworks display permit for July 4, 2008, at the Muskegon Country Club. The insurance coverage has been approved and Fire Marshall Metcalf will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks.

D. Vacation of East/West Alley and Southerly 60 feet of the North/South Alley Bounded by Ray, Laketon, Getty and Holbrook. PLANNING &
ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the East/West section of the alley and the Southerly 60 feet of the North/South section of the alley in the City of Muskegon's Westerman's Subdivision, bounded by Ray Street, Laketon Avenue, Getty Street, and Holbrook Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends vacation of the alley with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their May 15, 2008, meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman, T. Michalski, J. Aslakson, and B. Smith absent.

E. MDNR Central Reservation System Contract Extension. PUBLIC WORKS

SUMMARY OF REQUEST: To approve the renewal of the Michigan Department of Natural Resource's Central Reservation System contract between the City of Muskegon's Hartshorn Marina and the MDNR.

The MDNR Central Reservation System, whereby a transient boater can make a reservation in advance, collects Transient Boat Slip Payments which are then paid to the City. The contract would remain in effect through October 31, 2015.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the contract and authorize the Mayor and City Clerk to sign four copies.

F. Construction Engineering Services for Drainage Facility at West Branch of Ruddiman Creek and Vacated Greenwood Street. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into a construction engineering services agreement with Prein & Newhof to perform the inspection and staking to replace the existing culver at the westerly branch of Ruddiman Creek at the vacated Greenwood Street. The \$14,919.10 of not to exceed fee will be shared between the cities of Norton Shores, Roosevelt Park and the City of Muskegon based on a previously established percentage.

Prein & Newhof is being recommended due to the reasonable fee proposal as well as their familiarity in the project since they were the design engineers.

FINANCIAL IMPACT: The City share of the fee, which is about \$5,520 (37%).

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into a construction engineering services agreement with Prein & Newhof.

G. Acceptance of an Easement from Sherman/Buckner LLC. ENGINEERING

SUMMARY OF REQUEST: Accept a storm sewer easement from Sherman/Buckner LLC to replace and maintain a storm sewer culvert at the west branch of Ruddiman Creek north of Sherman Blvd. and authorize the Mayor and Clerk to sign the easement documents and direct staff to record said easement.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Accept easement and direct staff to record.

I. Consideration of Bids for Bike Path along Lakeshore Drive, Cottage Grove to McCracken. ENGINEERING

SUMMARY OF REQUEST: Award the bike path construction/stripping contract to C & L Trucking out of Iona since they were the lowest responsible bidder with a total bid price of \$93,412.18.

FINANCIAL IMPACT: The construction cost of \$93,412.18 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to C & L Trucking.

J. Consideration of Bids for Sewer Replacement and Lining in the Alley between Crowley, Henry, Windsor, and Young. ENGINEERING

SUMMARY OF REQUEST: Award the sewer replacement/lining contract within the referenced alley to Kamminga & Roodvoets out of Grand Rapids since they were the lowest responsible bidder with a total bid price of \$88,110.

FINANCIAL IMPACT: The construction cost of \$88,110 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Kamminga & Roodvoets.

K. Consideration of Bids for Jiroch, Southern to Irwin; Dale, Peck to Sanford; and Seventh Street, Muskegon to Webster. ENGINEERING

SUMMARY OF REQUEST: Award the Jiroch, Dale, and Seventh Streets construction contract to Milbocker & Sons out of Allegan since they were the lowest responsible bidder with a total bid price of \$495,786.70.

FINANCIAL IMPACT: The construction cost of \$495,786.70 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Milbocker & Sons.

M. Acceptance of an Easement from Betten. ENGINEERING

SUMMARY OF REQUEST: Accept a sanitary sewer easement from Betten within which the existing sanitary sewer line will be relocated as part of the Betten development on the east side of Henry Street. Furthermore, if acceptable, direct staff to record said easement.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Accept easement and direct staff to record.

N. Consumers Energy Grant/Muskegon Unity Academic Olympics. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve for the Mayor and the City Manager to sign the grant application to the Consumers Energy Foundation for assistance with the proposed First Annual Muskegon Unity Academic Olympics for students in grades K through 8 with strong emphasis on students who attend Muskegon Public Schools.

In partnership with the Muskegon Public Schools, the CNS office, along with several other community stakeholders, is proposing to sponsor an academic competition for Muskegon Public School students in grades K through 8. The competition will be designed to be interactive, as well as educational, with emphasis in the four disciplines: math, language, social studies and mechanical/technology. It is hoped that this event will be a primer for the MEAP test that students will be required to take in September, upon returning to school. The event is scheduled to take place in August, if the necessary funds are raised.

This event is hoped to be an illustration on how the community can come together with our different resources to improve and showcase the educational achievements of our young people. The CNS office has obtained confirmed financial commitments from Community Shores Bank, Mercy General Hospital and the Muskegon Community Foundation. In addition, Michigan State Extension and the Muskegon County Family Court have also expressed their support.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the CNS office request.

O. First Quarter 2008 Budget Reforecast. FINANCE

SUMMARY OF REQUEST: At this time staff is requesting approval of the *First Quarter 2008 Budget Reforecast* which outlines proposed changes to the original budget that have come about as result of changes in policy priorities, labor contracts, updated economic conditions, or other factors.

FINANCIAL IMPACT: The biggest change is an adjustment of projected income tax revenues from \$6.9 million to \$7.2 million. This upward adjustment is based on an analysis of recent collection history and allows us to eliminate from the 2008 budget the projected transfer of \$300,000 from the Budget Stabilization fund. Other revenue items are generally on target with projections as are most operating budgets. We are, of course, hopeful that the Governor's proposal to increase revenue sharing by four percent is successful. This would impact the last three payments (of six) for the City's 2008 fiscal year. Significantly, employee healthcare coverage was renewed at a 6% increase which is within our budget projection.

Aside from income tax, the other significant changes to the 2008 budget included in the first quarter reforecast are in the area of capital improvements. Most of these changes reflect the reallocation of costs due to failed/withdrawn special assessment projects.

BUDGET ACTION REQUIRED: Self-explanatory.

STAFF RECOMMENDATION: Adopt the *Budget Reforecast* as previously submitted by staff.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the Consent Agenda as presented minus items H and L.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

2008-46 ITEMS REMOVED FROM THE CONSENT AGENDA:

H. Resurfacing of Western Avenue between Third and Terrace. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Fleis & Vandenbrink (Engineer) and Milbocker & Sons (Contractor) to share in the cost of the milling and resurfacing of Western Avenue between Third and Terrace in an effort to remove the unexplained edge cracking which was discovered shortly after the initial pavement. Under this proposal, the City will contribute 25% of the estimated \$53,000 cost.

After over a year of evaluation, no one appears to understand the cause of the pavement failure; but all recognize the need to participate in the corrective measure being proposed.

FINANCIAL IMPACT: The City share of the estimated cost is \$13,250.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with the contractor and engineer to perform the repairs.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the resurfacing of Western Avenue between Second and Terrace.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

L. Consideration of Bids for Beidler Street, Laketon to Southern. ENGINEERING

SUMMARY OF REQUEST: Award the Beidler construction contract to Milbocker & Sons out of Allegan since they were the lowest responsible bidder with a total bid price of \$520,531.21.

FINANCIAL IMPACT: The construction cost of \$520,531.21 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Milbocker & Sons.

Motion by Commissioner Shepherd, second by Commissioner Wierengo to award the bid for Beidler Street, Laketon to Southern to Jackson Merkey for a bid of \$525,860.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to table the consideration of bids for Beidler Street, Laketon to Southern to the next City Commission Meeting.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION TO TABLE PASSES

2008-47 PUBLIC HEARINGS:

- A. Resolution Revoking the Industrial Facilities Exemption Certificate for Beckstrom Mold Technologies.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the real property component of the Industrial Facilities Exemption Certificate issued to Beckstrom Mold Technologies be revoked due to delinquent taxes. The certificate was issued in 1997 and gave the company a six-year exemption on personal property and a twelve-year exemption on real property.

FINANCIAL IMPACT: The Company will reimburse the abated taxes.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold a public hearing and authorize the Mayor and Clerk to sign the resolution revoking the real property component of IFT certificate No. 97-407.

The public hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Carter, second by Commissioner Wierengo to close the public hearing and approve the resolution revoking the Industrial Facilities Exemption Certificate for Beckstrom Mold Technologies.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2008-48 NEW BUSINESS:

- A. Resolution to Sell 237 E. Walton.** COMMUNITY & NEIGHBORHOOD SERVICES DEPARTMENT

SUMMARY OF REQUEST: To approve the resolution to sell the City-owned home at 237 E. Walton to Ms. Kaitlin McDonald of 1021 Tisdale Avenue, Lansing, MI, for the price of \$89,500, in addition to the affordability price based on the appraised value.

The home at 237 E. Walton was built by the City of Muskegon through the Walton Street Renaissance aka Hilltop View project. The development consists

of six new single-family homes that were built in a previously abandoned, vacant old urban renewal area. The purchase of this home will complete this development with all owner-occupied residences. The sale of this property will allow CNS to pay off a loan obtained by our CHDO, Neighborhood Investment Corp. The loan financed the construction of the street that runs from Murphy to Emerald on Walton.

FINANCIAL IMPACT: The Program Income from the project will be deposited in the City's HOME account after subtraction of \$60,000 for the payoff of the loan from Fifth third Bank.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and sale of 237 E. Walton to Ms. Kaitlin McDonald.

COMMITTEE RECOMMENDATION: Both the Land Utilization Committee and the City Commission approved the initial Walton Street Development.

Motion by Commissioner Shepherd, second by Vice Mayor Gawron to approve the resolution and sale of 237 E. Walton to Ms Kaitlin McDonald for the price of \$89,500.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

B. Rezoning Request for Property Located at 381 E. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone property located at 381 E. Laketon Avenue from B-2, Convenience and Comparison Business to B-4, General Business.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends denial of the request due to lack of compliance with the future land use map, Master Land Use Plan and zoning district intent.

COMMITTEE RECOMMENDATION: The Planning Commission voted to recommend denial of the request at their May 15, 2008, meeting. The motion passed by a 4-1 margin, with S. Warmington opposed to the denial. T. Harryman, J. Aslakson, T. Michalski, and B. Smith were absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to deny the request to rezone property located at 381 E. Laketon Avenue.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

C. Resolution Approving Michigan Department of Transportation Grant Application. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the request to submit the grant application to the Michigan Department of Transportation for the Lakeside Business District enhancements. Improvements include traffic calming measures, beautification, signage, and environmental mitigation. This transportation plan was initially created by the Sidock Group as a donation to the Lakeside Business District. Commission passed a resolution in 2006 to pursue the enhancements in the plan, but to follow the suggestions made in Bob Kuhn's letter. Staff has adjusted the plan accordingly to follow Mr. Kuhn's suggestions and to meet the grant guidelines.

FINANCIAL IMPACT: Improvements to the area could result in a more vibrant commercial district.

BUDGET ACTION REQUIRED: The grant requires a 20% match. The total project cost is estimated to be \$179,564, resulting in a \$31,098 match from the City.

STAFF RECOMMENDATION: To approve the request and sign the resolution.

Motion by Vice Mayor Gawron, second by Commissioner Wisneski to approve the request to submit the grant application to the Michigan Department of Transportation for the Lakeside Business District enhancements.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

D. Downtown Development Authority On-Premise Liquor License for Muskegon Athletic Club. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the resolution approving a Downtown Development Authority On-Premise Liquor License for the Muskegon Athletic Club. The Liquor Control Code allows for additional liquor licenses within Downtown Development Authority Districts under certain conditions.

FINANCIAL IMPACT: Approval of the Liquor License will allow for a new restaurant in the downtown area which should result in increased revenue for the City.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Spataro, second by Commissioner Wisneski to approve the resolution for a Downtown Development Authority On-Premise Liquor License for the Muskegon Athletic Club.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

E. Special Events Multiple Liquor License Requests. LEISURE SERVICES

SUMMARY OF REQUEST: The following organizations are requesting a temporary liquor license or an extension of their liquor license:

- The Muskegon Fraternal Order of Eagles (Aerie 668) is requesting an extension of their current liquor license to be able to serve non-members during the Muskegon Summer Celebration (June 27th through July 6th). The following temporary alcohol licenses have been approved for this time period: Muskegon Summer Celebration, and Mike's Inn.
- Muskegon Fraternal Order of Eagles (Aerie 668) is requesting an extension of their current liquor license to be able to serve non-members during the Muskegon Bike Time Event, scheduled July 18th through July 20th. The following temporary alcohol licenses have been approved for this time period: Racquets, Pop-A-Top, Muskegon Bike Time, Topsy Toad, and Mike's Inn.
- The Muskegon Yacht Club is requesting an extension of their current liquor license to be able to host the Harbor Hospice Chronicle Regatta on July 5, 2008. The following temporary alcohol licenses have been issued for this date: Muskegon Summer Celebration, and Mike's Inn.
- Port City C.I.O. Building Association, 490 W. Western Ave. is requesting a temporary liquor license during the Muskegon Bike Time Event, scheduled for July 17th through July 20, 2008. The following have already been approved: Racquets, Pop-A-Top, Muskegon Bike Time, Topsy Toad, and Mike's Inn.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITTEE RECOMMENDATION: The Leisure Services Board has approved the requests.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the special events multiple liquor license requests that were presented.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron,

and Shepherd

Nays: None

MOTION PASSES

F. Michigan Irish Music Festival Request. LEISURE SERVICES

SUMMARY OF REQUEST: Request for exclusive peddling and selling rights during the Michigan Irish Music Festival.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All peddling and selling rights pertaining to the Michigan Irish Music Festival are restricted to the location of the event at Heritage Landing.

COMMITTEE RECOMMENDATION: The Leisure Services Board approved this event at their April 21st meeting.

Motion by Commissioner Carter, second by Commissioner Shepherd to approve the request from Michigan Irish Music Festival for exclusive peddling and selling rights during the festival.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

G. Third Street Sculpture Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve an agreement between the City and the Community Foundation for Muskegon County for the placement and maintenance of a sculpture in the right-of-way at Third Street and Western Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the agreement and authorize the Mayor and Clerk to sign it.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the agreement between the City and the Community Foundation for Muskegon County for the placement and maintenance of a sculpture in the right-of-way at Third Street and Western Avenue subject to final approval by the City Manager and Attorney.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

H. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the following: PUBLIC SAFETY

1752 Beach

371 Houston – Area 10

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds for 1752 Beach and General Funds for 371 Houston.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 371 Houston.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Carter to concur with the Housing Board of Appeals notice and order to demolish 1752 Beach Street.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Various items were discussed.

2008-49 CLOSED SESSION: To discuss pending litigation.

Motion by Commissioner Carter, second by Commissioner Spataro to go into Closed Session to discuss pending litigation.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Wisneski to come out of Closed Session.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:10 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk